

TITLE 14 PARKS & RECREATION

(Entire ordinance revised effective April 1, 2005, Ordinance 2005-4)

Chapters:

- 14.01: General Provisions
- 14.02: Park and Recreation Board
- 14.03: Use of the Fairgrounds
- 14.04: Authority of Chief of Police to Limit Motor Vehicles in Parks
- 14.05: Urban Forestry Board
- 14.06: Rules and Regulations
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Chapter 14.01 GENERAL PROVISIONS

SECTIONS:

- 14.01.01: Scope and Purpose
- 14.01.02: Definitions
- 14.01.03: Penalty

14.01.01: SCOPE AND PURPOSE

The purpose of this Title is to set forth those regulations necessary for the administration, maintenance, management and operation of the City Parks and Recreation Areas.

14.01.02: DEFINITIONS

MOTOR VEHICLE: Any automobile, motor truck, motorcycle, house trailer, trailer, moped and any vehicle propelled by power other than muscular.

PARK TREES: Any trees, shrubs, bushes, and all other woody vegetation in any public park or in any area owned by the City, subject to the sight distance requirements herein after set forth.

PEST: Any organism, insect, rodent, fungus, virus, bacteria, or other agent that causes damage, abnormal growth, or mortality of any shrub, bush or other woody vegetation.

PROPERTY LINE: The property as platted.

PUBLIC RIGHT-OF-WAY: The entire area between property boundaries which is: owned by a government, dedicated to public use, or designated as an easement for public use; primarily used for pedestrian or vehicular travel; and publicly maintained, in whole or in part, for such use. "Right-of-Way" includes without limitation the public street, shoulder, gutter, curb, sidewalk, sidewalk area, parking or parking strip, and any other public way.

STREET TREES: Any trees, shrubs, bushes, and all other woody vegetation on public land or located within a dedicated public right of way or ways within the City. (Revised by Ordinance 2013-24, effective 1/1/2014)

TOPPING: The severe cutting back of limbs to stubs larger than six (6) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

URBAN FORESTER: Urban Forester employed by the City.

14.01.03: PENALTY

Any violation of the provisions of this Title is a Class 2 misdemeanor punishable by the maximum punishment set forth by the laws of the state of South Dakota pursuant to SDCL 22-6-2. Said punishment may also include payment of any costs and/or restitution authorized by this Title and/or state law.

Chapter 14.02
PARK AND RECREATION BOARD

SECTIONS:

- 14.02.01: Park and Recreation Board Established
- 14.02.02: Members, Appointment, Compensation, Bond
- 14.02.03: President, Vice President, Secretary
- 14.02.04: Meetings
- 14.02.05: Powers and Duties
- 14.02.06: Under Authority of Common Council
- 14.02.07: Duties of the President
- 14.02.08: City Council may Prescribe Rules
- 14.02.09: City Council may Close Parks and Recreation Areas
- 14.02.10: Illegal to Enter Closed Park

14.02.01: PARK AND RECREATION BOARD ESTABLISHED

There is hereby created for the City, a Park and Recreation Board consisting of five (5) members, one of whom shall be either the Mayor or a member of the City Council.

14.02.02: MEMBERS, APPOINTMENT, COMPENSATION, BOND

All members of the Park and Recreation Board shall be appointed by the Mayor and confirmed by the City Council. The term of each of the appointed members shall be for three (3) years. Thereafter, appointment of each member shall be for terms of three (3) years so that there will be an overlapping of tenure. The members of the Park and Recreation Board are to serve without compensation. Each member of the Board before entering upon his official duties shall give bond to the City in the amount of a least \$500.00 for the faithful performance of his duties and shall take and file in the Finance Office the usual oath of office required from such appointive officers of the City. The City shall pay the cost of the bond so furnished.

14.02.03: PRESIDENT, VICE PRESIDENT, SECRETARY

The Board shall elect from its number a President, Vice President, each of whom shall serve for a term of one (1) year or until a successor is elected and qualified, except and unless the said officer so elected is removed from the Park and Recreation Board before the end of his or her term. The Board shall also designate a Secretary. Said Secretary does not need to be a member of the Board.

The Vice President shall act in the absence or disability of the President.

In the event of death, retirement or removal of an officer from the Park and Recreation Board, a successor shall be elected immediately.

The Secretary of the Board shall keep a record of its proceedings to be made available to any member of the City Council at any reasonable time.

14.02.04: MEETINGS

The Park and Recreation Board shall determine the time of its regular meetings and the number, and the board may hold as many special meetings as it deems proper.

Three (3) members shall constitute a quorum for the transaction of business, but an affirmative vote of at least three (3) members shall be necessary to authorize any action of the Board. All officers of the Park and Recreation Board shall vote on all matters along with other members of the Board.

14.02.05: POWERS AND DUTIES

The Park and Recreation Board shall have all the combined powers and duties that a Park and Recreation Board would have separately as provided by the Statutes of the State of South Dakota, and acts amendatory thereto.

14.02.06: UNDER AUTHORITY OF CITY COUNCIL

The Park and Recreation Board shall be under the control and supervision of the City Council and any City funds to be expended for the management, supervision and improvement of the City parks and recreation areas shall be spent only upon the recommendation of the Park and Recreation Board and approval of the City Council. All vouchers submitted for expenditures for the management, supervision and improvement of the City parks and recreation areas shall first be approved by the Park and Recreation Board at a regular or special meeting and then marked approved by the Secretary of the Park and Recreation Board and then submitted to the City Council for its approval or rejection.

14.02.07: DUTIES OF THE PRESIDENT AND THE BOARD

It shall be the duty of the President of the Park and Recreation Board to preside at all meetings of the Park and Recreation Board. It shall be the duty of the Board to report to the City Council, upon request, advising the Council of all actions taken by the Park and Recreation Board. Each year, the Board shall present to the City, a budget for the recommended and estimated expenditures for the operation and improvement of the City's park and recreation system for the following calendar year.

14.02.08: CITY COUNCIL MAY PRESCRIBE RULES

The City Council may from time to time prescribe any rules, regulations, and responsibilities of the said Park and Recreation Board by amendment to this Title.

14.02.09: CITY COUNCIL MAY CLOSE PARKS AND RECREATION AREAS

The City Council, at its discretion may, from time to time, close any or all of the park and recreation areas in the City to any use or activity whatsoever and prohibit any persons except those authorized by the Chief of Police of the City to enter the park or recreation area. In the event that the City Council desires to close any park or recreation area, it shall consider the recommendation of the City Manager before considering a resolution specifying the park or recreation area being closed and the times it shall be closed.

14.02.10: ILLEGAL TO ENTER CLOSED PARK

It shall be a violation of this Ordinance, subject to the punishment set forth above, for any person to enter any park or recreation area that has been closed by the City Council as authorized by this Chapter.

(14.02.08, 14.02.09, 14.02.10 revised effective 11/13/2013, Ordinance 2013-15)

Chapter 14.03
USE OF THE FAIRGROUNDS

SECTIONS:

- 14.03.01: Lease Agreement and Liability Waiver Required
- 14.03.02: Fees
- 14.03.03: Ticket Sales
- 14.03.04: Bond and Insurance—Generally
- 14.03.05: Surety Bond
- 14.03.06: Liability Insurance

14.03.01: LEASE AGREEMENT AND LIABILITY WAIVER REQUIRED

No person may use the Fairgrounds of the City, or any other City owned property designated by the City Council to fall under the provisions of this Chapter, for any purpose whatsoever, without first signing a Lease Agreement and/or a Liability Waiver and Release from Liability, as the City deems necessary based upon the anticipated use.

In the event the fairgrounds or any other City owned property designated by the City Council to fall under the provisions of this Chapter, are being used for an event, said person shall also agree that all event participants shall sign waivers provided by the City.

In the event said person is using the fairgrounds or any other City owned property designated by the City Council to fall under the provisions of this Chapter, for practice of an activity, but not an event, said person shall sign the Liability Waiver and Release from Liability.

Upon City approval of the use of the facility, the Lease Agreement and Liability Waiver and Release from Liability forms will be provided for applicant's signature by the Rally and Events Department or the City Finance Office. (14.03.01 revised by Ordinance 2013-24, effective 1/1/2014)

14.03.02: FEE

No person shall be entitled to use the Fairgrounds or any other City owned property designated by the City Council to fall under the provisions of this Chapter, without either paying a fee set by the City or by making arrangements in the form of a written rental agreement with the City for use of the property by contribution of labor and/or materials in lieu of a fee.

14.03.03: TICKET SALES

Each lease contract shall include a ticket sales and expense reporting requirement. If not stated within the lease contract, then within fifteen (15) days from the completion of the event, lessee shall provide an accounting to the City of all tickets sold and all other revenue received for the use of the Fairgrounds. In the event that labor and/or materials are contributed in lieu of cash, then the contribution of labor and/or materials shall be made at the time and in a manner specified in the lease contract for that use. (14.03.03 revised by Ordinance 2014-24, effective 1/1/2014)

14.03.04: DEPOSIT REQUIRED

The City may require as a condition for the use of the Fairgrounds, or any other City owned property designated by the City Council to fall under the provisions of this Chapter payment of a deposit in

the sum of One Thousand Dollars (\$1000.00) in addition to the amount required in the rental agreement.

The deposit shall be returned to the applicant/lessee within ten (10) days after the end of the lease term set forth in the Lease Agreement, provided that the applicant/lessee has cleaned the premises within forty-eight (48) hours after the end of the lease term, and left the premises in the same condition as it existed at the commencement of the lease term.

In the event, any damage has occurred to the premises during the term of the lease, whether said damage was caused by applicant/lessee or a guest or invitee; the City shall deduct the cost of any damage from the deposit. The balance, if any, shall be returned to the applicant/lessee.

14.03.05: LIABILITY WAIVER AND RELEASE FROM LIABILITY

The Liability Waiver and Release from Liability required by the City to be signed by all persons using the fairgrounds or any other City owned property designated by the City Council to fall under the provisions of this Chapter, and all event participants shall include language to address the following concerns which shall apply to all event participants and his/her/its heirs and/or assigns.

- A. Any person signing said document will immediately upon entering the premises inspect the area and agree that if at any time he/she feels that anything on the premises is unsafe, he/she will immediately advise the Parks Director and will leave the area until the condition is remedied.
- B. Any person signing said document waives, discharges, and covenants not to sue the City or any department thereof or any lessees of the Sturgis Fairgrounds and its directors, officers, agents and employees.
- C. Any person signing the document agrees to indemnify and save and hold harmless the RELEASEES from any loss, liability, damage, or costs they have incurred arising out of or related to the use of said property whether caused by the negligence of the RELEASEES or otherwise.
- D. Any person signing the document assumes full responsibility for any risk of bodily injury, death or property damage arising out of or related to the use of the designated properties.
- E. Any person signing the document agrees that the document, extends to all acts of negligence by the RELEASEES..

14.03.06: LIABILITY INSURANCE

Any applicant/lessee shall be required to purchase liability insurance, designating the City of Sturgis as a named insured, which shall cover all operations and activities held on the leased premises during the term of the lease. The liability insurance policy shall be with a reputable insurance company licensed to do business in the State of South Dakota. Said policy shall be in the minimum amount of Fifty Thousand Dollars (\$50,000.00) property damage, Five Hundred Thousand Dollars (\$500,000.00) personal injury per person, with an aggregate of at least One Million Dollars (\$1,000,000.00), or a combined single limit of One Million Dollars (\$1,000,000.00). The City shall be named as additional insured on said policy. Said policy on insurance shall be provided to the City at least three (3) days before the beginning of the lease term and must be approved by the City and the City Attorney.

(14.03 amended effective 8/3/2011, Ordinance 2011-05)

(14.03 amended effective 1/1/2014, Ordinance 2013-24)

CHAPTER 14.04
AUTHORITY OF CHIEF OF POLICE TO LIMIT
MOTOR VEHICLES IN PARK AND RECREATION AREAS

SECTIONS:

- 14.04.01: Power and Authority
- 14.04.02: Sturgis Bike Path
- 14.04.03: Bear Butte Creek
- 14.04.04: Exemptions
- 14.04.05: Racing and Competitive Competition Prohibited

14.04.01: POWER AND AUTHORITY

The City Manager, after consultation with the Chief of Police and Parks Director, shall have the power and authority, when deemed necessary for public health and safety, to determine the types and numbers of motorized vehicles allowed in the parks and recreations area of the City at any time. In the event the City Manager deems it necessary to limit the number and/or type of motorized vehicles in any park or recreation area in the City, he shall cause to be posted at the entrance to the park or recreation area affected by the restriction, a sign providing for the types of vehicles allowed and the period of time for which the restriction is imposed. **(14.04.01 revised by Ordinance 2013-24, effective 1/1/2014)**

14.04.02: STURGIS BIKE PATH

No person shall operate any motor vehicles upon the Sturgis Bike Path.

14.04.03: BEAR BUTTE CREEK

No person shall operate any motor vehicle within the confines of the Bear Butte Creek.

14.04.04: EXEMPTIONS

The following shall be exempt from Sections 14.04.02 and 14.04.03

- A. City maintenance vehicles.
- B. City Police vehicles.
- C. Any handicapped person operating any approved device that is designed specifically for individual handicap mobility.

(14.04.04 revised by Ordinance 2013-24, effective 1/1/2014)

14.04.05: RACING AND OTHER COMPETITION PROHIBITED

No person shall engage in racing or other competitive events with bicycles or other off road vehicles in the Bear Butte Creek area or upon the trail system maintained by the City or anywhere within the City when such action will interfere with the safe usage of bicycle and pedestrian trail systems maintained by the City.

CHAPTER 14.05
URBAN FORESTRY BOARD AND TREES

SECTIONS:

- 14.05.01: Creation of Board and Statement of Purpose
- 14.05.02: Urban Forestry Board Established
- 14.05.03: Street Trees
- 14.05.04: Trees on Public Property
- 14.05.05: Trees on Private Property
- 14.05.06: Storage of Wood
- 14.05.07: Interference with City Parks Department

14.05.01: CREATION OF BOARD AND STATEMENT OF PURPOSE

The City hereby finds and determines that in order to protect existing neighborhoods, promote good design in new areas, and provide for sensitive and compatible development in existing commercial areas, the Urban Forestry Board shall be created to review and make recommendations on City tree plans and developed, created, or approved by the City Park and Recreation Board. The purpose and intent for regulating the planting, removal, and maintenance of trees, brushes, shrubs, and other woody vegetation, on public and private property are threefold:

- A. To protect and increase property rights and values;
- B. To enhance and conserve the City's aesthetic environment and physical characteristics of the land.
- C. To generally protect and enhance the quality of life and general welfare of the City.

14.05.02: URBAN FORESTRY BOARD ESTABLISHED

There is hereby created and established an Urban Forestry Board, which shall consist of five (5) persons. The City Park and Recreation Board shall be the Urban Forestry Board. Any person appointed to the City Park and Recreation Board shall automatically be a member of the Urban Forestry Board for the term of his or her membership on the City Park and Recreation Board.

It shall be the responsibility of the Board to review and make recommendations on the City tree plan.

The Board shall consider, investigate and make findings, reports and recommendations upon any special matter or question coming within the scope of its work.

14.05.03: STREET TREES

No street trees shall be planted unless and until the City Manager or his/her designee, after consultation with the Urban Forestry Board, has first approved the kind, size, variety and location thereof.

It is unlawful for any person to top any street tree or other tree on public property. Trees on public property and located within a public right of way severely damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical may be topped only with the approval of the City Manager or his/her designee.

All stumps of street and park trees shall be cut below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

14.05.04: TREES ON PUBLIC PROPERTY

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within public right-of-way and on public grounds, as it may determine.

Any living tree within the public right-of-way and on public grounds shall not be removed without permission from the City Manager or his/her designee.

The minimum height of branches extending over the sidewalks in the City shall be seven (7) feet.

The minimum height for branches extending over the public right-of-way shall be fourteen (14) feet.

The City Parks Department may remove or cause or order to be removed, any tree or part thereof which is in unsafe condition or which by reason of its nature is injurious to private property, sewers, electric power lines, gas lines, water lines or other public improvements, or is infested with any pest. This Section shall not prohibit the planting of street trees by owners of adjacent property provided that the selection and location of said tree is made in accordance with this ordinance.

14.05.05: TREES ON PRIVATE PROPERTY

The City shall have the right to inspect and cause the removal of any dead or diseased trees on private property within the City if such trees constitute a hazard to life or property or harbor pests, which constitute a threat to other trees within the City. The City shall notify the owners of such trees, in writing, to remove such trees within such reasonable time as shall be determined by the City Manager or his/her designee. Removal shall be made by said owners at their own expense. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal to the owners or to assess the costs thereof against the property.

Any person claiming an interest in any tree ordered to be removed under the preceding paragraph may appeal such order to the City Manager or his/her designee within seven (7) days of the date of notification.

14.05.06: STORAGE OF WOOD

No person shall store or permit the accumulation of any elm wood in the City. No person shall store any tree or part thereof declared to harbor or contain any pest infestation unless the bark is removed prior to storage.

(14.05.03, 14.05.04, 14.05.05, 14.05.06 revised by Ordinance 2013-24, effective 1/1/2014)

14.05.07: INTERFERENCE WITH CITY PARKS DEPARTMENT

It shall be unlawful for any person to prevent, delay, or interfere with the City Parks Department or any of its agents engaged in the planting, cultivating, mulching, pruning, spraying, inspecting, or removing of any street trees, park trees or trees on private grounds, as authorized in this Chapter.

Chapter 14.06
RULES AND REGULATIONS

SECTIONS:

- 14.06.01: Hours
- 14.06.02: Illegal to Enter or Remain
- 14.06.03: Deposit Required for Use of Shelters
- 14.06.04: Pets and Animals
- 14.06.05: Wildlife and Vegetation
- 14.06.06: Metal Detectors
- 14.06.07: Authority of City Park and Recreation Board to Regulate

14.06.01: HOURS

The City Parks and recreation areas shall be open to the public from 5:00 a.m. to 10:00 p.m. each day.

14.06.02: ILLEGAL TO ENTER OR REMAIN IN CLOSED PARK OR RECREATION AREA

No person, other than law enforcement officers or other individuals participating in activities authorized by the City, may enter, be present in or remain within any City park or recreation area, including restrooms, parking areas or other support facility areas within park or recreation area boundaries, during the time that such park or recreation area is not open to the public. This prohibition does not apply to traffic moving through such park or recreation area on a designated and developed public right of way. Any person found in violation of this subsection shall be subject to the penalties as set forth at subsection 14.01.03 herein.

(14.06.01, 14.06.02 revised effective 11/13/2013, Ordinance 2013-15)

14.06.03: DEPOSIT REQUIRED FOR USE OF SHELTERS

Any person desiring to use any shelter located in any City Park and Recreation Area shall pay a deposit of twenty dollars (\$20.00) to secure clean up of the shelter and return of the key. The deposit shall be paid to the Finance Office and shall be returned to the person having paid said deposit upon return of the key and proper clean up of the Shelter.

14.06.04: PETS AND ANIMALS

Any pet allowed by City Ordinance 32.02.03 and present within any City Park, Recreation Area, Bike Path or cemetery shall be on a leash no longer than ten (10) feet. Any person bringing a pet within any City Park, Recreation Area, Bike Path or cemetery shall clean up after the pet, consistent with City Ordinance 12.02.01 (CC).

No horses shall be allowed within any City Park, Recreation Area or Bike Path except as authorized by the City Council.

(14.06.03, now 14.06.04, revised effective 7-4-2012, Ordinance 2012-09)

14.06.05: WILDLIFE AND VEGETATION

Any wildlife and/or vegetation, living or dead, located within any City Park and Recreation Area shall not be disturbed by any person or any person's pet. All wildlife and vegetation shall be left where found.

14.06.06: METAL DETECTORS

The use of metal detectors or other such devices used to locate buried materials shall be prohibited within any City Park and Recreation Area unless specifically authorized by the City Manager or her/her designee.

14.06.07: AUTHORITY OF CITY PARK AND RECREATION BOARD TO REGULATE

The City Park and Recreation Board shall be authorized to establish any additional rules and/or regulations found by the Board to be necessary to assure the public safety, protection and enjoyment of the City Parks and to assist the City in maintaining its Parks. Any additional rules and/or regulations established by the Board shall be posted in the Parks in a manner sufficient to inform the public.

Chapter 14.07 Appeal Process

Any person aggrieved by a decision made under this Title shall be entitled to have said decision reviewed by the City Manager. If after review, the person is unsatisfied, he or she may appeal the decision to the City Council. The process shall be as follows:

- A. An aggrieved person shall first file a written request for review with the City Manager setting forth the basis for which he or she believes the decision to be in error. The writing shall also include the person's name and mailing address.
- B. Upon receipt of a written request for review, the City Manager shall review the decision and mail a written response to the aggrieved person within twenty (20) days.
- C. If the aggrieved person is not satisfied with the decision of the City Manager following review, he or she may file a notice of appeal with the City Finance Officer. There shall be a twenty-five dollar (\$25.00) fee assessed for filing an appeal, which shall be paid to the Finance Office at the time of filing the notice of appeal.
- D. Upon receipt of a notice of appeal, the Finance Officer shall notify the City Council and a public meeting shall be held within thirty (30) days after the date said appeal was filed. The Council shall provide notice to the person specifying the time, date, and location of the hearing.
- E. The Council may notify the aggrieved person of its decision following the hearing, however, the Council shall issue a written decision to the person within twenty (20) days of the hearing. The Council may affirm or reverse the decision of the Building Inspector.

(Entire ordinance revised effective April 1, 2005, Ordinance 2005-4)
(14.07 revised by Ordinance 2013-15, effective 11/13/2013)
(14.07 revised by Ordinance 2013-24, effective 1/1/2014)